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March 1971
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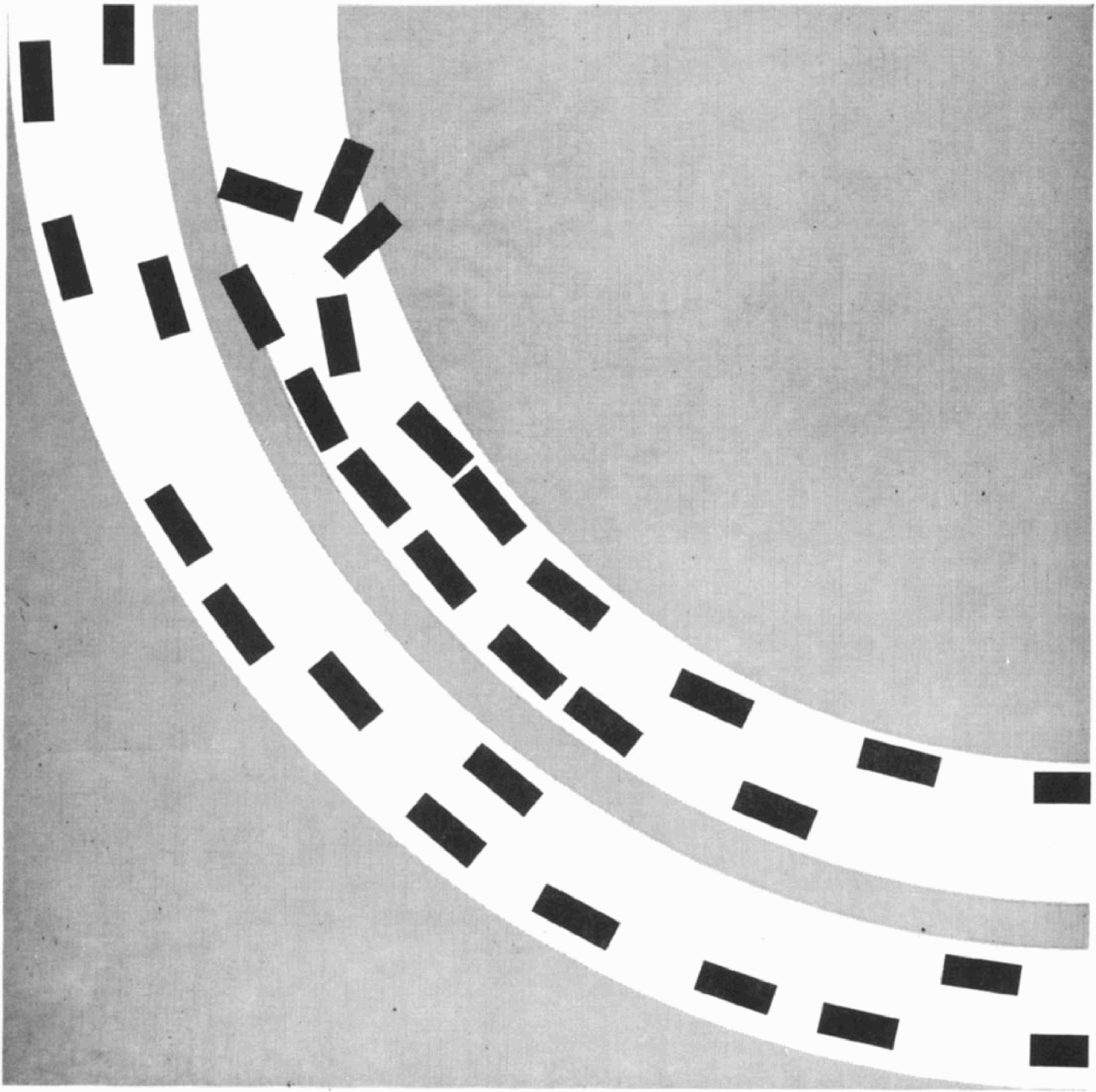

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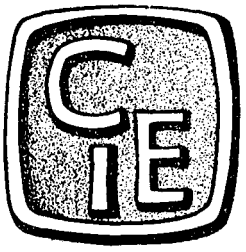

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reason

Volume 2, No. 12
March 1971

REASON on current events.
Published monthly by the staff at
Santa Barbara, California.

Please note the new address for subscription and editorial correspondence: PO Box 6151, Santa Barbara, Ca. 93105.

Single copies: $.75. Subscriptions: 12 issues $6.00. First class delivery to overseas subscribers: $13.00 per year. First class delivery in the U.S.: $9 per year. Please allow 3 weeks for change of address and include both new and old addresses in request. Back issues are available only as advertised.

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REASON magazine is planning a double issue for the months of April and May. Vol. 3, Nos. 1&2 will be devoted entirely to a discussion of education. This 45-plus page special edition will contain several ma major articles by libertarian/objectivist authors, including professors John Nelson, Tibor Machan, educational theorists John Holt and Christopher Jencks, and libertarian thinkers Robert Poole, Jr., and George Pearson. These and other contributors will tackle theoretical and tactical problems of education. The issue will be published inlate April. Subsequent issues will appear on regularly scheduled dates.

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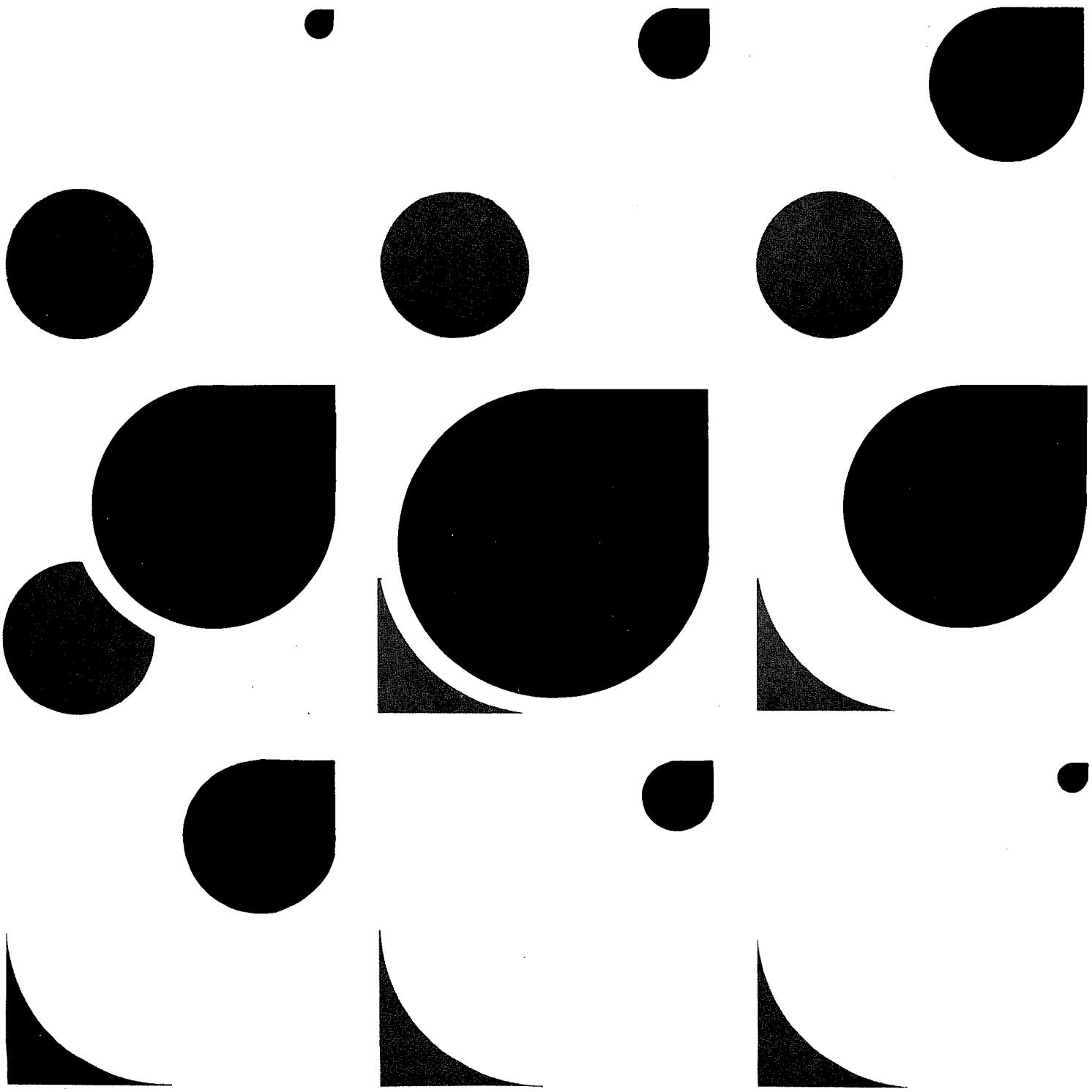

They held it in a vast warehouse room with steel girders on the ceiling, rent-a-carpets on the floor and four hundred clear-eyed technocrats mounted on folding chairs; stick figures composing a symmetrical checkerboard audience, each of whom has found a plausible, mathematically provable position on the upward side of the great bell-curve of life. The subject, as is so often the case when benevolent governments convene with concerned industries, was how to save us clumsy but lovable citizen-drones from ourselves.

Douglas Toms, personifying folksy, candid men of government, stood up before the gathering and said in his best honest-injun, Oregon schoolboy twang, that, in effect, it was his sacred duty, as Director of the National Highway Safety Bureau, to help save American lives on the road, regardless of whether the poor dolts want his help or not. Seat belt usage is plummeting, he reported, while trying to register gravity on his flushed, "Gee dad, it's a Winchester" countenance and pronounced resolutely, "Our first priority is to save lives." That priority would be met most effectively, he added, by the universal application of passive restraints—air bags—to all passenger-carrying motor vehicles.

Toms had come to the lectern as the hard-line handmaiden of the Honorable John A. Volpe, Secretary of Transport of the United States of America and the most zealous advocate of equipping automobiles with air bag systems that would automatically inflate in the event of collision, thereby turning thousands of auto crashes into nothing more than lethal pillow fights. Volpe came to the conference early and left early, pleading that he had to return to Washington in the press of greater business. He punched out his carefully prepared speech, cocky and civet-eyed, in harsh, down-east accents, stating that it was his intent to turn the motor vehicle into a "protective shield" for its passengers. Hunching earnestly toward his audience, he denounced the automobile as "a public health menace," then flirted with the abstract by asking, "Who is to say that among the young who have died in auto crashes was not a future Washington or Michaelangelo?"

This terrible consumption of life via car crashes demands severe measures on the part of the government and the builders, the Honorable Secretary said, and this leaves no choice but to employ air bags on all cars by 1973. His original schedule had called for a time limit of 1972 (even though the D.O.T.'s own air bag tests are scheduled to run through 1976, with results in 1977), but complaints from the industry about the impossibility of meeting such a deadline had prompted him to add 12 months to the schedule a mere two days prior to the speech. But he remained unswerving in his conviction that this concession would be the last and left the room after imploring his audience to "Let's get the bugs out of the bags." Then he was gone, sweeping out of the room behind fluttering applause from the industry-dominated crowd. At least he had come. The other government headliner, flunky administration liberal Daniel P. Moynihan, hadn't bothered to show up, letting Toms make particularly feeble apologies for him based on the fact that Moynihan couldn't find a satisfactory plane flight to get him there. Maybe "benign neglect" will work with auto safety too.

So, as the Honorable Secretary of Transport zoomed back to Washington, safely above the death-infested highways, the North Atlantic Treaty Organization International Conference on Passive Restraints got underway in the cavernous Safety Research and Development building at General Motors Proving Ground— a structure known to some who recall GM's frantic scramble to get into the safety biz, as "The House that Nader Built." But what about NATO sponsoring a safety conference? What have passive restraints got to do with the ninety billion Red-Horde Commie armored divisions who may may try to capture Andorra? Isn't NATO a military alliance? Primarily yes, but in a Parkinsonian thrust for life in the face of obsolescence, NATO has cast its lot with peace! Wow. Swords into plowshares! Anyway, member nations are now grappling with common social problems, and the United States has been selected to lead the way in three areas: auto safety, disaster relief and air pollution. Therefore, in company with the Big Four auto manufacturers, the U.S. Government hosted this conference on passive restraints.

It was, in fact, a GM show. There were strong, but unconfirmed rumors that Ford was sore about the fact that GM and the government were getting all the headlines, and whether this was true or not, it played a minor role in the proceedings. Company strong man Lee Iacocca, sporting an enigmatic leer throughout the Honorable John A. Volpe's address, departed shortly thereafter, leaving his Body Engineering Chief, Stuart Frey, to say what Ford had to say about passive restraints in an airy little recitation titled "History of Air Bag Development." This was long on chronology, and clearly intended to tell the world that Ford had been into air bag development for about as long as the idea has been kicking around. But in there with the history, in the same dry, engineer's drone, were a few items of general information worth considering. Not the least of these was the news that if the air bag is arranged to burst right straight out of the instrument panel, it will deliver a punch "in the fatal range" for a child standing with his face close to the area of bag deployment. If, on the other hand, deployment is directed laterally, the force of opening caused "major deformation of the instrument panel (even) to the extent of breaking the windshield." In a multiple-impact collision, the air bag would thus set you up with structure stripped bare of padding, and broken chunks of glass to cushion the second jolt.

Frey also stressed that these difficulties exist with only a single air bag, for the front-seat passenger, and in anticipation that a lap belt would also be used to prevent ejection from the car. Ford also considers the belt to be essential for protection in high-speed crashes, when the air bag may not inflate in time. Finally, Frey pointed out that another Federal agency, the FDA, will not consider approving a new drug—however promising—until after extensive laboratory and field testing has shown it to be free of adverse side effects. And you would have to say that there are some highly disturbing side effects with air bags at the present state of the art.

Ford's presentation being concluded, representatives from the Little Two of the Big Four, Chrysler and American Motors, stepped to the podium to say their piece. But they hadn't much more to offer, each taking a half-hour to outline developments their organizations had made in the field, and then retiring to let the big boys into the center ring.

The rewards the government and General Motors were seeking from the conference were obviously opposed. The Honorable Secretary and his minion apparently expected a vast body of knowledge to well forth from the numerous, publicity hungry manufacturers, all of which would support their position that air bags would be Everyman's salvation. General Motors, on the other hand, was acting as the tacit spokesman for the world body of automakers by using the conference to tell the government and the public that, under present technology, air bags are not perfected.

Rolling out heavy artillery in the form of corporation president Edward Cole, who was on hand for much of the two-

day session, General Motors stated flatly that they could not produce a reliable, fail-safe air bag device within the time limit set by the government. "I hope the bags can go on schedule," said Cole in those strong, lucent tones that rumble out of the throats of all tough, confident business leaders, "but. . ." That qualifier opened the dam for a flash flood of statistics designed to sweep the Honorable Secretary, Mr. Toms and their air bags back to Washington. Out came the movies and film strip projectors and a string of technocrats armed with enough subliminally negative graphs and bell curves to stuff a Univac.

They droned out this message: While a helluv an idea, air bags are not ready for use by the general public because of some serious technical problems. For example, an air bag is supposed to pop up in your face a few milliseconds after your car hits something, stay inflated for a few more milliseconds to absorb the kinetic energy in your flying body, then collapse after saving your life. This will work, according to the government, in crash impacts equal to driving a vehicle into a solid barrier at 30 miles an hour. Beautiful! Twenty-five thousand lives saved each year with air bags, claims the Honorable Secretary. Only another dark conspiracy by the auto cartels and the ghoulish, profit-hungry tycoons prevent this mechanism from being installed on all cars today screech the consumer paranoids. But what about the actual deployment of the bag? After the Honorable Secretary has drained the idea of its political reward and the Consumer's Union has again maundered in its pablum about how air bags are being kept from a yearning populace by the homicidal fiends in Detroit, it will be up to the scrubbed legions of brush cut engineers in white shirts and skinny ties, with packs of sharpened pencils and six-inch steel rulers in their breast pockets, to solve the problem—to make the air bag *work,* so that when mom and pop and the kids skid their bald tires on the pavement and thump something, the bags will pop and save them, *every* time.

To do this, the bags need a sensing unit mounted somewhere in the automobile. This sensor must be able to determine when the car hits something harder than a curbstone or the back of the garage and trigger the deployment of the air bags. A gas cylinder then pops its bung and fills the bag, or bags, in the passenger compartment. This must happen in about 60 milliseconds—60 thousandths of a second—in order for the bags to fill up before the people collide with the dashboard, windshield, etc. This time limit means the bags have to be filled up in fairly rapid fashion-ergo, these soft vinyl pillow cases come at you at about 500 miles an hour. "Like getting hit in the face with a wet towel," said one Government type, soothingly. Such an impact might be nothing to Joe Frazier or Dick Butkus, but what about a frail old grandma and her dainty rimless bi-focals, or pop, who makes it through the crash, but now smokes his Prince Albert through a hole in the back of his head?

Then the engineers have to reduce the noise and the concussion. In the event you crave a home demonstration of exactly how an air bag going off will sound, it is recommended that you purchase a cherry bomb and ignite it in the front seat of your car—with the windows up. While air bag devotees swear the resultant trauma will be temporary and that your hearing will not be permanently damaged, you will find the experience something akin to standing under a tree while it is struck by a bolt of lightning. In an automobile equipped with air bags in the front and rear seats, with four adults on board, the concussion and the inflation of the bags will displace so much air that the windows will be blown out and, on smaller cars, the doors buckled! What's more, there exist the virtually unsolved problems of side crashes, rollovers and multiple impact collisions, wherein the bags will inflate and deflate long before the car comes to rest.

Add to this the specter of accidental inflation, and the gap between the Honorable Secretary and the scrubbed men with the lead pencils reaches near-unbridgeable dimensions. Again, acting as a spokesman for the industry, a General Motors statistical expert stood up and trudged through a deadly, detailed discourse on reliability, logically hammering home the point that it is *impossible,* on the basis of mathematical probability, to prove 100% reliability in anything, including the prevention of accidental deployment of air bags. His projection indicated that something like 1000 of the approximately 4-million motor vehicles produced annually by GM—if equipped with air bags—would accidentally deploy. Although unsaid, his lecture left one with the picture of a car bustling along a crowded freeway at 70 mph when the bags go off, sending it lashing out of control and causing a multi-car pileup.

Now the group-thinkers have an answer for that, and it is embroiled in the jargonese of "payoffs" and "tradeouts." As one of the benevolent technocrats put it, "We may lose a few due to inadvertent deployment, but in terms of the ones we will save, they'll be insignificant." As long as the unlucky "ones" are somebody else's, that argument will stand up. But, only with thinkers who reach conclusions on the basis of probabilities, bar graphs, computations and mad, Orwellian phrase-frippery such as "maximizing the variables," can cynical "tradeouts" in terms of accidental deaths to prevent additional accidental deaths make sense. In war, where the consumption of lives is a foregone conclusion, this sort of nightmare thinking has a macabre kind of logic about it, but in peaceful endeavor the idea of consuming lives to save lives borders on madness.

Within the concept of auto safety, the requirement that an automobile be equipped with seat belts, strong chasis, safe interiors, good brakes, tires, suspensions, etc. is both right and necessary because these devices offer the driver and his passengers the option of using them and may very well prevent injury to others outside the automobile. With an air bag—which is the absolute antithesis of a "passive device—there is no such option, and until it can be made utterly, completely, totally, absolutely fail-safe, no government has the moral right to force its citizens to measure their individual safety in terms of "tradeouts" and "payoffs." A seat belt cannot hurt you. An air bag can.

"We know that seat belts, shoulder harnesses and roll cages do the best job in saving lives," Toms has said. "But people don't use them so we'll make them utilize air bags." There is at present *no known* accident under 60 mph in which occupants using belts and harnesses have been killed. It seems, therefore, that if one desires to survive in an automobile, he has the means to preserve his life.

It becomes not a question of technology, but a question of philosophy relating to the sovereignty of the individual. Before a final decision is made about air bags, let the Honorable Secretary gather together a group of academicians, writers, philosophers, and political activists to discuss the following question: "Presuming that a vast majority of people drive or ride in automobiles as a voluntary act involving what they believe to be an acceptable risk, what are the limits of responsibility for a government and the manufacturers in preserving life and health?"

The conference will never be convened, so let the words of John Stuart Mill stand: *"The sole end for which mankind is warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. His own good, either moral or physical, is not a sufficient warrant."*

Brock Yates is Senior Editor of CAR AND DRIVER. His article "Is Inflation Good For You?" originally appeared in that magazine and is reprinted here by permission.

trends

robert poole, jr

This column reports significant events, publications, and analytical findings associated with the growing rejection of corporate liberalism and the concurrent rediscovery of laissez-faire principles. By reporting and publicizing such items, the REASON community can help ensure that they do indeed represent trends, not merely isolated instances. Readers are invited to submit material for this column.

NONZONING IN HOUSTON

Zoning, along with death and taxes, is often considered to be one of life's necessary evils. How else, one is asked, can the hapless homeowner be protected against having a boiler factory or rendering plant erected next to his suburban bungalow? Few people can quite believe their ears when informed that Houston, a city of 1,280,000 people, has never adopted a zoning ordinance. Neither, in fact, has Harris County, in which it is located, nor have eight other cities in that county. Moreover, the citizens of Houston have twice had the opportunity to vote on whether to adopt a zoning ordinance and both times (1948 and 1962) rejected it by a substantial margin.

How can this be? Can the market really provide ways of protecting property values and insuring orderly development and land use? Apparently it can and does, according to Bernard H. Siegan, whose 76-page analysis in the *Journal of Law and Economics* is the first comprehensive study of property use in a non-zoned city. The basic mechanism which the market has developed to protect land values is the restrictive covenant—a *contract* between an owner/developer and the subsequent purchaser concerning the uses to which the land may be put. The covenants are generally enforced by the people themselves and through numerous homeowners' associations and similar private efforts, although in recent years there has been a trend toward some governmental enforcement of the covenants.

Mr. Siegan's analysis is outstanding for its thorough coverage of the subject. He describes in detail the way covenants work, and how they change over time, and the types of land uses in various sections of the city. He has also gone much deeper in analyzing how zoning would likely have handled each of the situations he describes. In addition, he attempts to assess the costs and benefits of zoning, as compared with the non-zoned conditions existing in Houston.

In general, the most important finding is that land use is *primarily* determined by economic factors independent of zoning—and that, for this reason, the nature of Houston's land use is little different from what it would be if it were zoned. It is just economically ridiculous to build a boiler factory in a residential neighborhood. Nonetheless, the lack of zoning does does have certain effects. The three major ones are that the demand for apartments has been far better satisfied in non-zoned Houston that it would have been under the typical zoning restrictions. Secondly, more commercial and multifamily uses exist along major thoroughfares than would be the case under zoning. And there are "probably" more non-home uses (corner groceries, etc.) in single-family areas than if these areas had been zoned for single family use.

Siegan points out the political nature of zoning, its usage in artificially creating windfall profits or forcing people out of homes and businesses, its stagnating effects on innovation, and its tendency to freeze land use into an unchanging, out-of-date pattern. These costs Houston has avoided. Mr. Siegan is well aware that zoning is a highly emotional issue—yet, as he points out, most critics of zoning "are not moved to study the Houston system. Instead they advocate additional government controls over the use and development of property. The dogma persists that if zoning does not work, it is desireable to try more of it."

In answer to such critics, Bernard Siegan's carefully-reasoned,factual study is a landmark in the development of urban analysis as a science. Defenders of zoning can no longer rely on emotion-laden strawman arguments to support their case—a vigorous, feasible counterexample exists and has now been well documented. It cannot longer be ignored. All readers interested in property and land-use should obtain a copy.

SOURCE: "Non-Zoning in Houston," by Bernard H. Siegan, *Journal of Law and Economics,* Vol. XIII (1), April 1970, University of Chicago Law School, 1111 E. 60th Street, Chicago, Ill. 60637.

NOTE: *The Journal of Law and Economics* is probably the best academic journal of its kind. It frequently presents papers written from a classical liberal (libertarian) viewpoint on current issues in political economy, by such scholars as Yale Brozen, Ronald Coase, Harold Demsetz, Milton Friedman, and George Stigler. It is issued twice a year, at a subscription price of $7. Single copies are $4 each (about 500 pp.).

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DEREGULATING THE RAILS

Advocates of the status quo often accuse libertarians of being utopians—i.e., of advocating vague ideas about laissez-faire competition which have never been tested in the real world. Others acknowledge that some aspects of laissez-faire existed in the 19th century, but they say that our modern economy is too complex for such ideas to be workable. In answer to both types of critic , a recently-begun controlled experiment is dramatically demonstrating the superiority of laissez-faire.

In 1967 the Canadian government passed a National Transportation Act which substantially freed Canadian railroads from freight regulation, allowing rate levels to be set by market forces. Meanwhile, U.S. railroads continued hobbling along under the protection of the Interstate Commerce Commission. Under the ICC's guidance, U.S. railroads are allowed—even encouraged to meet and fix prices (such acts in other industries violate anti-trust laws). The net effect is to preserve the status quo, since an innovative proposal by one road is usually voted down by its "competitors". For this reason the rate structure (though not the rate levels) in the U.S. today is virtually the same as it was 50 years ago, despite the vastly-changed market conditions of the 70's.

In sharp contrast, under the near-laissez-faire Canadian atmosphere, radical changes have occurred. One of the major changes has been the development of integrated freight service, offering any combination of highway, air, and small shipment operation. This type of "inter-modal" operation, illegal for the most part in the U.S., is ideal for shipping multi-purpose containers, which can be loaded at a supplier's plant, moved by truck to the railroad, shipped to a port, and loaded directly onto a freighter, all without any human contact handling or repacking. The economics of containerization are so great that many midwestern U.S. shippers have switched to Canadian railroads, bypassing east coast U.S. ports in favor of Canadian ports.

Other services now available due to the "cutthroat competition" of Canadian laissez-faire include wholesale discounts to ocean shippers for a guaranteed minimum number of containers per year, new "retail" discounts applying the same rate to all containers regardless of contents (in contrast to U.S. rates still based on a variant of the labor theory of value), and a special small shipment service tied in with domestic package express service.

And what of U.S. railroads? "Container traffic on Eastern railroads could triple over-night if railroad men would wake up to the 20th century," said a speaker at last spring's International Container and Equipment Exposition. U.S. Maritime Administrator Andrew Gibson is attempting to bring U.S. railroads, ship lines, and port interests together to develop a Canadian-style container service in the U.S. Such an effort is almost certain to fail, so long as the present regulatory structure continues. Not until the lesson of this side-by-side demonstration of laissez-faire vs. regulation is learned will meaningful progress be possible.

SOURCE: "An End Run Around U.S. Ports," *Business Week,* April 25, 1970, pp. 56-57.

BIG BUSINESS AND THE RISE OF AMERICAN STATISM: A REVISIONIST HISTORY (PART 2)

R.A. CHILDS, JR.

"Monkey see, monkey do" or how other industries learned to wield the political axe

Now let's look at some other segments of American industry. From about 1875 on, many corporations, in quest of large size and domanance in their field, over-expanded and overcapitalized; mediocre entrepreneurship, administrative difficulties, and increasing competition cut deeply into the markets and profits of many giants. Mergers were often tried, but "the larger part of the mergers brought neither greater profits nor less competition. Quite the opposite occured. There was *more* competition, and profits, if anything, declined."[19] A survey of 10 mergers showed, for example, that they earned an average of 65% of their pre-consolidation profits. Overcentralization inhibited their flexibility of action and hence their ability to respond to changing market conditions. In short, things were not at bad as the railroads in other industries; they were often worse.

In the steel industry, "the price of most steel goods declined more or less regularly until 1894-95, and although prices generally rose in subsequent years, there was continual insecurity within the industry as to what each competitor might do next. The apprehension was later justified."[20] Pools and mergers alike failed to cut down competition, and small firms branched out and took business away from the giants. A merger of many corporations in 1901, based on collaboration between J. P. Morgan and Andrew Carnegie, resulted in the formation of U. S. Steel, yet U. S. Steel's profit margin declined over *50%* between 1902 and 1904. In its first two decades of existence, U. S. Steel held a continually shrinking share of the market; due to technological conservatism and inflexible leadership, it became increasingly expensive and inefficient. [21] Voluntary efforts at control failed; U.S. Steel then turned to politics.

The same was true in oil where Standard Oil was dominant. In 1899 there were 67 petroleum refiners in the U.S.; within 10 years, the number had grown to 147 refiners. Competition!

In the telephone industry, things were in a similar shape. From its foundation in 1877 until 1894, Bell Telephone (AT&T) had a virtual monopoly in the industry based on its control of almost all patents.[22] In 1894, many of the patents which AT&T didn't deserve in the first place expired; "Bell immediately adopted a policy of harassing the host of aspiring competitors by suing them (27 suits were instituted in 1894-1895 alone) for allegedly infringing Bell patents."[23] But such efforts to stifle competition failed; by 1902, there were 9100 independent telephone systems; by 1907, there were 22,000. Most had rates lower than AT&T.

In the meat packing industry too, the large packers felt threatened by increasing competition. Their efforts at control failed. Similar diffusion of economic power was the case in other fields, such as banking, where the power of the eastern financiers was being seriously eroded and challenged by midwestern competitors.

This was the basic context of big business; how did it react? Almost unanimously, it turned to the power of the state to get what it could not get by voluntary means. This was accomplished not only through concrete political advocacy and pressure, but by engaging in large-scale, long-run ideological propoganda or "education" aimed at getting different sections of the American society united behind statism, in principle and practice.

Let's look at some of the activities of the major organizational tool, that glorious trust for statism, the National Civics Federation. The NCF was an actual reincarnation of Hamiltonian views on the relationship of the state to business. Primarily an organization of big businessmen, it pushed for the tactical and theoretical alliance of business and government, a primitive version of our modern business-government "partnership" - a partnership in regulation and control, in confiscation and intimidation, in foreign intervention and war—in short, a partnership in crime. It was not, as conservatives contend, a matter of ideological innocence on the part of big businessmen which led them to create a statist economic order - they knew what they were doing and constantly said so.

The working partnership of business and government was the conscious result of the activities of organizations such as the NCF, created in 1900, coinciding with the birth of what is called the "progressive era," to fight with increasing and sustained vigor against what it considered to be its twin enemies: "the socialists and radicals among workers and middle class reformers, and the 'anarchists' among the businessmen (as it characterized the National Association of Manufacturers)." (My emphasis) The smaller businessmen, who constituted the NAM, formed an opposition from the "right" to "the new liberalism that developed in cooperation between political leaders such as Theodore Roosevelt, William H. Taft and Woodrow Wilson, and financial and corporation leaders in the NCF and other organizations."[23] The NCF before the first World War "was the

most important single organization of the socially conscious big businessmen and their academic and political theorists." The NCF "took the lead in educating businessmen to the changing needs in political economy which accompanied the changing nature of America's business system."[25]

The early leaders of the NCF were such big business leaders as Marcus A. Hanna, utilities magnate Samuel B. Insull, Chicago banker Franklin MacVeagh (later Secretary of the Treasury), Charles Francis Adams, and several partners in J. P. Morgan and Company. The important members of the Executive Committee of this Johnny Appleseed of power and pull were Morgan associate, George W. Perkins, E. H. Gary, a Morgan associate and one of the heads of U. S. Steel, Andrew Carnegie, Cyrus McCormick, Theodore N. Vail, president of AT&T, and George Cortelyou, head of Consolidated Gas. The largest contributor to this group was Andrew Carnegie.[26]

The NCF created a "Commission on Public Ownership of Public Utilities" in 1905, which issued a three volume report on its findings that coincided exactly with the position of one of its founders, the utilities magnate Samuel B. Insull, and with the views of the National Electrict Light Association, which established a general framework for regulatory laws stating that utilities should be conducted by legalized monopolies regulated by independent commissions. The work on a public utilities bill was done under the supervision of Emerson McMillin, a banker and president and director of several gas, light, and traction companies, including American Light and Traction, Southern Gas of New Jersey. Of such regulation, one businessman wrote another: "Twenty-five years ago, we would have regarded this as a species of socialism," but, seeing that the railroads were submitting wholeheartedly to government regulations, the NCF's self-appointed job of "educating municipal utilities corporations" became much easier.[27]

As Upton Sinclair said of the meat industry, which he is given credit for having "tamed," "The federal inspection of meat was historically established at the packers' request . . . . It is maintained and paid for by the people of the United States for the benefit of the packers. . . ."[28] . . ."[28]

Congressional hearings during the administration of Theodore Roosevelt revealed that "the big Chicago packers wanted more meat inspection both to bring the small packers under control and to aid them in their position in the export trade. Formally representing the large Chicago packers, Thomas E. Wilson publically announced: 'We are now and have always been in favor of the extension of the inspection.' "[29]

In both word and deed American big businessmen sought to replace the last remnants of *laissez-faire* in the United States with government regulation—for their "benefit." In February 1908, speaking at Columbia University, George W. Perkins, Morgan associate, said that the corporation "must welcome federal-supervision, administered by practical businessmen."[30]

"As early as 1908, Andrew Carnegie and M. E. Ingalls had suggested to the NCF . . . the idea of an interstate trade commission, modeled on the ICC and British Board of Trade. As Carnegie put it, an 'Interstate Commission' with 'the power to judge combinations and contracts proposed' was needed. This had 'been found sufficient in other countries, and will be so with us. We must have our industrial as we have a Judicial Supreme Court.' "[31] This dream was to be translated into political reality in the form of the nightmare Clayton Anti-Trust Act and the Federal Trade Commission (FTC).

Concerning price competition, Andrew Carnegie stated that "it always comes back to me that government control, and that alone, will properly solve the problem . . . . There is nothing alarming in this; capital is perfectly safe in the gas company, although it is under court control. So will all capital be, although under Government control."[32]

AT&T, under the driving force of J. P. Morgan, who had managed to gain effective control of the Board of Directors by 1907, chose to solve the problem of small competitors by seeking federal regulation. They got what they wanted in 1910, when telephones were placed under the jurisdiction of the ICC, and rate wars became a thing of the past. Theodore N. Vail, president of AT&T, said in 1914, "We believe in and were the first to advocate . . . governmental control and regulation of public utilities."[33]

In June of 1911, Elbert H. Gary, of U.S. Steel, appeared before a Congressional Committee and announced to astonished members, "I believe we must come to enforced publicity and governmental control . . . even as to prices . . . ." He virtually offered to turn price control over to the government. Kolko states that "the reason Gary and Carnegie were offering the powers of price control to the federal government was not known to the Congressmen, who were quite unaware of the existing price anarchy in steel. The proposals of Gary and Carnegie, the Democratic majority on the committee reported, were really 'semisocialistic,' and hardly worth endorsing."[34]

On the same day that Gary testified, Cyrus McCormick "dropped into the Civic Federation office in New York and urged its committee to draw up legislation. McCormick . . . (said) that he would be glad to have the government fix the price of the products of the International Harvester Company."[35]

In 1911, Gary appeared before the Newlands Committee and proposed that every interstate corporation should be required to have a federal license—if it met strict capitalization and price requirements. "A corporation commission similar to the ICC would be created to grant, suspend, and revoke licenses, subject to court appeal," he said, and, "in line with Carnegie's proposal, it could regulate prices."[36]

In the fall of 1911, the National Civics Federation moved on two fronts: it sent a questionaire to 30,000 businessmen to seek out their positions on a number of political issues, preliminary returns in November indicated that businessmen favored federal regulation of trade by a commission of the ICC type by three to one.[37]

In November of 1911, Theodore Roosevelt called for the formation of a national commission with "complete power over the organization and capitalization of all business concerns engaged in interstate commerce," and possibly prices as well. "The proposal immediately won an enthusiastic response from Wall Street."[38]

In 1912, Arthur J. Eddy, an eminent corporation lawyer, working much of the time with Standard Oil and one of the architects of the FTC, stated boldly, in his *magnum opus* THE NEW COMPETITION, what had been implicit in the doctrines of the big businessmen all along; Eddy trumpeted that "competition was inhuman and war, and that war was hell."[39]

Thus did big businessmen believe and act.

Business leaders flocked to support Theodore Roosevelt for president in 1912 on the Progressive Party ticket. Frank Munsey, a director of U.S. Steel, wrote to Roosevelt that the U.S. must move from "excessive democracy" to a more "parental guardianship of the people," who needed "the sustaining and guiding hand of the State." As Munsey saw it, it was "the work of the State to think for the people and plan for the people - to teach

them how to do, what to do, and to sustain them in the doing." He supported Roosevelt, as so many businessmen did, as the candidate best suited to advance these concepts.[40]

Meanwhile, back at the bank, J. P. Morgan was not to be left out. Morgan's financial power and reputation were largely the result of his operations with United States and European governments; his many dealings in currency manipulations and loans to oppressive European states earned him the reputation as a "rescuer of governments." One crucial aspect of the banking system at the beginning of the 1900's was the relative decrease in New York's financial dominance, and the rise of alternative sources of substantial financial power. "J. P. Morgan and Co. were fully aware of the diffusion of banking power that was taking place, and it disturbed them."[41]

Hence, Morgan and the New York Bankers turned to the only engine that could control the economy where they had failed: the federal government. By 1907, NCF business members had become convinced of the alleged "need" for an elastic currency and for greater centralization of banking. Victory Morawetz, chairman of the Executive Board of the Atchison, Topeka and Santa Fe Railroad, supported the establishment of a central banking clearing house association to provide "intelligent control over the credit situation, through a board of leading bankers under government supervision and control.[42]

Nelson Aldrich proposed a reform-bank act and called a conference of 22 bankers from 12 cities to discuss it. The purpose of the conference was to "discuss winning the banking community over to government control directed by the bankers for their own ends." A leading banker, Paul Warburg, stated that "it would be a blessing to bet these small banks out of the way."[43]

Most of his associates agreed. In 1913, two years after the conference and after many squabbles over specifics, the Federal Reserve Act was passed. The big bankers had won.

These were not the only areas in which businessmen and their political henchmen were active. Roosevelt had a passing reference to the desirability of an income tax in his 1906 message to congress, and the principle received support from such businessmen as George W. Perkins and Carnegie, who often referred to the unequal distribution of wealth as "one of the crying evils of our day." He announced in 1908 that the problem of this inequality "could be solved by the rich regarding their money 'to be administered as a sacred trust for the good of others. . . .' "[42] Many businessmen opposed it, but the Wall Street Journal said that it was certainly in favor of it, although it opposed a section of the first Act which exempted persons with incomes under $4000 a year; equality of sacrifice was its line.

1914 saw the passage of the Clayton Anti-Trust Act and the creation of the Federal Trade Commission. Once established, the FTC began its attempt to secure the "confidence" of "well intentioned" businessmen. In a speech before the NCF, one of the pro-regulation powerhouses, J. W. Jenks, "affirmed the general feeling of relief among the leaders of the large corporations and their understanding that the FTC was helpful to the corporations in every way."[45]

For those with any doubts about my thesis, which I have been illustrating above, let me be explicit: Big business is the major root of American statism; it is the dominant and conscious architect of 20th century American statist-liberalism.

Thus, consider that Carnegie, who in traditional right-wing mythology was a pure free-enterpriser, not only supported all of the programs mentioned but also supported such things as the big navy movement at the turn of the century. He sold steel to the government which went into the building of the ships and saw in the Venezuela boundary dispute the possibility of a large order for armor from the U.S. Navy.[46] Also, like James J. Hill, he worked with the Russian czar to build the Russian statist-economic system. In 1917, Carnegie was "clamoring for war as a means of establishing permanent peace."[47]

J. P. Morgan was a prime mover of American and European statism. His foreign financial dealings led him to become so deeply involved in the British-German conflict in World War I through loans and huge investments to Britain that when the defeat of Britain was imminent, it was Morgan and his fellow financiers who persuaded Wilson to enter the war. Thus Morgan pushed for sacrificing human lives so that he could reap profits from his loans to the British government.

Consider statements made in 1914 by S. Thruston Ballard, owner of the largest wheat refinery in the world. Ballard not only supported restrictions on immigration, vocational schools as a part of the public school system (which would transfer training costs from industry to taxpayers), and a national minimum wage, he saw and proposed a unique way to "cure" unemployment. He advocated a federal employment service, public works, and if these were insufficient *"Government concentration camps where work with a small wage would be provided, supplemented by agricultural and industrial training."* [48]

The partial fulfillment of these ideological tendencies was World War I, with the controlled, quasi-fascist economic system which resulted from the actions of such agencies of control as the War Industries Board (WIB), headed by well-known Wall Street financier Bernard Beruch. The result was "a system under which production was maximized by 'businessmen wholly consecrated to Government service.' "[49]

Consider, finally, the role of big businessmen in "innocently" pushing public education during and after World War I. Consider that Senator Wadsworth spoke before a gleeful group of NCF members in 1916, pointing out that compulsory government education was needed to "protect the nation against destruction from within. It is to train the boy and the girl to be good citizens, to protect against ignorance and dissipation." This meant that the reason to force children to go to school, at gunpoint if need be, was to brainwash them into accepting the status quo, almost explicitly to ruin and trample on their capacity for dissent (i.e., their capacity for independent thinking). Thus did Wadsworth bleat his praise and unblushing advocacy of compulsory and universal military training: "Our people shall be prepared mentally as well as in a purely military sense. *We must let our young men know that they owe some responsibility to this country." (!!!!)*

Indeed, we find V. E. Macy, president of the National Civics Federation at the close of the war, stating that it was not "beside the mark to call attention to the nearly thirty million minors marching steadily toward full citizenship," and ask "at what stage of their journey we should lend assistance to the work of quickening . . . the sense of responsibility and partnership in the business of maintaining and perfecting the splendid social, industrial, and commercial structure which has been reared under the American flag " (my emphasis). The need, Macy noted, was most urgent. Among American youths there was a widespread "indifference toward, and aloofness from, individual responsibility for the successful maintenance and upbuilding of the industrial and commercial structure which is the indispensible shelter of us all."[50]

Big business, then, was behind the existence and curriculum of the public educational system, *explicitly to teach young minds to submit and obey, to pay homage to the "corporate-liberal" system which*

the politicians, a multitude of intellectuals, and many big businessmen, created.

My intention has been simply to present as accurate a picture of what happened as is possible in order to help people form an accurate conception of "how we got here," which is necessary if we are to understand and deal with the present as it is. This requires an honest-to-life picture of many fabled big businessmen as they were in a very important part of their activities. Did they support governmental policies? Why? And how? And what have been the effects? This is what I am asking.

I am suggesting that these industrialists might have thought and planned both with regard to their own industries and with regard to the political system as a whole. I am challenging the view which holds that they were giants of the intellect in one field (business) but incompetent, bungling oafs in another (politics).

What is the conservative's flaw in analyzing this? He does not integrate into his historical outlook the fact that there has never been *laissez-faire* in America, that the practice of one group attempting to "benefit" itself at the expense of another by coercion is an age-old tradition, although it was not made into a *system* (with the exception of slavery, taxation, and the tariff) in American history until the progressive era. At that point, it was largely "big businessmen" who whooped it up for the regulatory commissions which seem to have everlasting life. They *as a class* have never really been "America's persecuted minority." They may very well be one of the most productive groups in history, but we can legitimately ask what *might have been* had they not worked to eliminate our semi-market economy, had they not used the government to smash *more* efficient competitors and innovators.

Liberals, of course, err because they fail to understand that it was the *power of government* that enabled these businessmen to gain their ends. They have long called American business evil, but they have yet to see the evil of a coercive state. They also have yet to realize that *laissez-faire* never existed in America or anywhere else.

Though there have been exceptions, it has been and to a large degree remains big businessmen who are the fountainheads of American statism. If libertarians are seeking allies in their struggle for liberty, I suggest they look elsewhere.

The lesson of all this is perhaps obscure. What can validly be said is this: libertarians must stop looking to the past for allies in their struggle for a rational culture and look toward the future. Our hope lies, as difficult as it may be for some to accept, not with remnants from an illusory "golden age" of individualism, but with tomorrow, with youth, with anyone who will listen. Our day has not come and gone. But it could be coming.

FOOTNOTES

19. Kolko, *The Triumph*, etc., p. 25.
20. *Ibid.*, p. 31.
21. *Ibid.*, pp. 30-39.
22. It is instructive to note that most, if not all, of these patents were illegitimate according to libertararian ownership theories, since many other men had *independently* discovered the telephone and subsequent items besides Bell and the AT&T group, yet they were coercively restrained from enjoying the product of such creativity. On the illigitimacy of present and past patent laws and their coercive-monopolistic nature see Rothbard, *Man, Economy, and State*, Vol. II, pp. 652-660.
23. *Ibid.*
24. Weinstein, *op. cit.*, pp. 5-7.
25. *Ibid.*, pp. 5-7.
26. *Ibid.*, pp. 30n & 34.
27. *Ibid.*, pp. 25 & 34.
28. Kolko, *The Triumph*, p. 103.
29. *Ibid.*, p. 105.
30. *Ibid.*, p. 129.
31. Weinstein, *op. cit.*, p. 82.
32. Kolko, *The Triumph*, p. 180.
33. *Ibid.*
34. *Ibid.*, pp. 173-74.
35. Weinstein, *op. cit.*, p. 85.
36. Kolko, *The Triumph*, p. 176.
37. Weinstein, *op. cit.*, pp. 87-88.
38. Kolko, *The Triumph*, p. 175.
39. *Ibid.*, p. 181.
40. Weinstein, *op. cit.*, p. 155.
41. Kolko, *The Triumph*, pp. 140-142.
42. Weinstein, *op. cit.*, p. 29.
43. Kolko, *The Triumph*, p. 186.
44. *Ibid.*, p. 173.
45. Weinstein, *op. cit.*, p. 91.
46. Walter LeFeber, *The New Empire: An Interpretation of American Expansion, 1860-1890* (Ithaca: Cornell University Press, 1963), pp. 239 & 273n. The note on Carnegie's linking of the Venezuela boundary dispute with obtaining large orders of steel from the navy was taken from Carnegie correspondence. This book is, in addition, an excellent treatment of a subject which I unfortunately cannot get into here, the role of certain businessmen not only in producing an interventionist domestic policy but an expansionistic-imperialistic foreign policy. Also, see William A. Williams, *The Tragedy of American Diplomacy* (New York: Delta, 1962).
47. Charles C. Tansill, *America Goes To War* (Boston: Little, Brown and Company, 1938), p. 651.
48. Weinstein, *op. cit.*, pp. 209-210.
49. *Ibid.*, p. 223.
50. *Ibid.*, pp. 133-35.
51. For an excellent, more general, overview of history, including the role played by classical liberalism in Western Civilization, see Murray N. Rothbard's "Left and Right: The Prospects for Liberty," in *Left and Right*, Vol. I, No. 1. While the present essay concentrates on a small period involving big business, other periods show similar results in every era. The role of businessmen in passing "protectionist" tariffs and the like is well known; not so well known is the continuity throughout the supposedly "radical" New Deal. For a peek at how some businessmen developed the basic ideas which were later adopted by Roosevelt, see Murray N. Rothbard, *America's Great Depression* (Princeton: D. Von Nostrand, 1963), esp. pp. 245-251. Finally, two notes: (a) This essay in no way is based on the doctrine of "collective guilt," i.e., I have nowhere maintained that a businessman is "guilty" of supporting statism merely because he is "big"; some businessmen indeed opposed regulations, but they were few and far between. My method has been to examine the opinions and proposals of dominant members of key industries; (b) I am totally aware that such regulations would not have been possible if it were not for the government. But the point is simply that the state is *not* some mystical entity existing in a societal vacuum—it is a certain kind of institution which has certain relations with other institutions. The question is simply: *who has been responsible for the laws which have succeeded in cartelizing American industry within a coercive, statute-riddled framework?* Politicians passed them; businessmen, however, were the fountainhead.

market for liberty reviewed

tibor machan

Because most readers of REASON are familiar with laissez-faire economic theory and the ethical arguments on behalf of the voluntary association, my review of *The Market for Liberty* by Morris and Linda Tannehill will be somewhat limited. The book is unique only in one respect. It advocates the abolishment of government and the handling of what has been thought by others, including Ayn Rand, to be the function of government, namely the protection of rights (military, police, courts), through the mechanism of the market place. For this reason I will focus my review on the central elements of this book, on its chapters "Man and Society" and "Government – An Unnecessary Evil".

In general there is little that is original in this work, even though some of the points are well made. For one, the work effectively shows why violent revolution is both immoral and useless towards achieving a fully free society. But many points which have been made by the several well known libertarian thinkers (Rothbard, von Mises, Rogge, Read, Rand, *et al.)* are merely asserted instead of proven or even argued for. Thus the discussion of "human nature" fails to be convincing to anyone who might have different ideas about the matter – and is useless to those who already agree.

Sometimes the work is irritatingly superficial. For example, no recognition of some of history's major philosophers and philosophies is given, even though the ideas presented are clearly part of a Western philosophical tradition. Frequently the reader is implicitly put down for not being already in agreement with the authors, as, for instance, where the reader is offered a definition of a term without any attempt to state and argue for a theory of definitions in terms of which such a definition could be seen to held up. (More on this later.)

For someone who is a high school student or in general has no educational background whatsoever, *The Market for Liberty* can serve the valuable purpose of presenting him with ideas which are not widely discussed and known today. But the work will not suffice to show anything conclusive in view of its failure to observe even the most elementary rules of scholarship. For example, when opposing views are discussed, no mention is made of whose views it is that are being talked about; nor is there a presentation of quotations of the central arguments of the opposing thesis. The reader is constantly left with the impression that the views being rejected are given short shrift, if not intentionally, then by default. How could a complex theory of government, based on a total philosophical system, like that of Miss Rand, be presented second hand, without even mentioning the name of the person whose view it is?

Unfortunately there is very little that one can hope for by pointing this out to the authors, who are well known among libertarians. The utter presumption of necessary infallibility exudes throughout the work. Had the authors argued for all of their points in detail, such arrogant self-assuredness would be perfectly justified (and a healthy sign of their own psychological state). Under the circumstances it can only be understood as a mask behind which incompleteness, thoroughlessness, and other deficiencies are hidden.

"Man and Society"

On page 6 we read: "Most self-styled planners and builders of societies haven't even considered that man might have a specific nature." No one is mentioned, even in a footnote, so that we could get some idea whom the authors have in mind. Plato? Aristotle? Augustine? Aquinas? Spinoza? Descartes? Hobbes? Locke? Hegel? Marx? Spencer? von Mises? Rand? Surely none of these, inasmuch as all of them thought that man does have a *specific* nature, though they differed markedly over what it is. Perhaps the authors had in mind Hume who indeed rejected the possibility of formulating a definition of man – though this did not bother him and he went right ahead and based a complete moral system on his implicit conception of human nature.

Later we read that "This lack of realization that man has a specific nature which requires that he function in a specific way . . ." without finding any attempt to make clear how this "requiring" obtains. Surely human natures unlike people, do not go about *requiring* things of anyone. Perhaps an understanding of human nature would lead us to be able *to base on it* a view of how human beings ought to act, to justify a moral code. No requiring is needed – or if there is, we ought to be told what is meant by this unusual sense of the term.

While earlier we were told that man has a specific nature, later we are told that "Since Darwin, scientific research has been steadily uncovering evidences of evolution which show the development of the nature of the human animal." So, apparently, this specific human nature underwent development (and may, so far as we know, still be undergoing the same). This, one would think, warrants at least a clarification.

Still on page 6, the authors footnote a sentence with the works of Robert Ardrey and Desmond Morris without any indication of the relevance of these works to what they are trying to tell the reader. To my knowledge both these authors hold to a theory which proposes that man is instinctually tied to territorial habits, that there is a "territorial imperative" within his biological system which pushes him, as it were, toward property. The Tannehills never

attempt to square this with their belief in man's nature as a free agent, a self-causing entity.

The authors' discussion of the Objectivist theory of free will and its implications for morality is adequate, though one might have welcomed some elaboration instead of the simple (and at times slightly distorted) regurgitation which is in fact offered to the reader. For example, on page 7, we are told that "If (man) is to have a full and happy life, he needs a blueprint to show him what is pro-life and what is anti-life and to guide his choices and actions. Such a blueprint is *a code of* morality – a chosen guide to action. If a man wants *his morality* to further his life instead of crippling it, he must choose *a morality* which is in harmony with his evolved nature as a sensing, thinking being." (My emphasis.) What is not made clear is whether morality (*being* moral) consists of following a blueprint or of discovering how to live, blueprint or no blueprint. Two things should be noted in this connection, both of special value to students of Objectivism. Being moral is choosing to be *rational,* to be *aware in the specifically human way.* If this leads to the discovery of blueprints, fine and dandy – that is what is moral; but if it does not lead to any blueprint we are still not condemned to immorality. If, as the authors tell us, man has an evolving nature (*a la* Darwin), or one that *can be* in evolution still, then there is no guarantee that a given blueprint will suit all men for all times. In other words, what is in a person's "self-interest" as a human being may change from one century to another in various ways. What is always imperative, of course, is that man be aware of reality and himself in his mode of awareness which, to the best of our knowledge, is rational thought, conceptual awareness.

The authors also fail to distinguish between "a code of morality", "his morality," and "a morality". Are there several moralities to choose from? What would that involve? If being moral consists of being humanly aware, rational, how could I, as a moral person (who is indeed rational) choose *a* morality as opposed to another morality? This all needs to be explained. Without a detailed discussion the authors might have as well directed the reader to Ayn Rand's *The Objectivist Ethics* and leave the matter at that.

On page 8, "choosing to think" is said to be "man's most powerful tool and greatest virtue . . . "Here I want merely to point out that *a choice is not a tool* – though it may *put into operation* man's most powerful tool, namely his reasoning faculty. (Of course, the choice *is* man's virtue, *it* is what makes him good or bad or a mixture.)

The authors discuss sacrifice on page 9 and do a fine job of it. Yet here again a little carelessness slips into their discussion, resulting in the statement that " . . . man, by his nature, must choose to think and produce in order to live, and the *better* he thinks, the better he will live." First, "by his nature" is quite vague! Then, it is not "the *better* he thinks" but the *more* rational he is, which means the *more fully aware* he is. (Admittedly, this is a rather technical distinction which might not be possible to make without extensive study of Objectivism.)

On page 11 the authors put forth their claims about the alienability of human rights. We read "The beachcomber, by his initiation of force against and to the detriment of another man, has alienated himself from the right to that part of his life which is required to pay his debts. Rights are *not* inalienable, but only the possessor of a right can alienate himself from that right – no one else can take a man's rights from him."

This view is confused. In addition it contradicts what the authors say earlier on the same page: "A right is a moral prohibitation; it doesn't specify anything with regard to *what* actions the possessor of the right may take (so long as his actions are non-coercive) . . . " But if a right is just a moral prohibition which "morally prohibits others from forcibly interfering with any of (one's) non-coercive actions" then one does not get alienated from his rights when others demand *and* extract payment for debts. Since a right is a moral prohibition against interference with *non-coercive action,* interference with coercive action (and what results from it, *unjust possessions* – a mere *instance* of coercive action) cannot constitute an act involving the alienation of a right. And since the person who engages in coercive actions, say theft, is now in possession of something that is not his, he cannot become alienated from that – it was never his in the first place. The authors tell us that "Each person has a right to his own life, which means that each person is a self-owner (assuming that his behavior has been and is non-coercive)." Again, if true, this would indicate that a real honest to goodness right cannot be alienated. Even the guy who is sent to jail for life is there as a result of his *humanity,* because he is *by right* in jail, not because he has alienated himself from his rights (see "Persons and Punishment" by Herbert Morris, *The Monist* '68). Had the criminal alienated himself from his rights, he would not be treated as a criminal, that is, as a human being who has done a moral wrong, a violation of another's rights; he would be treated as a non-human. Inasmuch as human rights are based on the fact of someone's being a human being, only the loss of this status (one's humanity) could succeed in alienating one from his rights. Certainly one would not hold that the violation of another's rights renders one non-human.

Already in this chapter there are a lot of references to the unproven (as yet) thesis that government is *necessarily* evil. Still, the discussion of the relationship between the practical and the moral is quite good. One would still have liked to know what distinguishes the morally and practically good. If nothing why have two separate concepts? But this might require far greater detail than the authors planned on in connection with that issue and, of course, no work can take on *every* topic which relates to its central purpose.

"Government – An Unnecessary Evil"

Now we come to the Tannehill's *raison d'etre,* their attempt to prove that good government is impossible, that government is necessarily evil, that the concept of "government" is invalid, and that any definition of government is self-contradictory.

First, the authors assert that: "Government is a coercive monopoly which has assumed power over and certain responsibilities for every human being within the geographical area which it claims as its own." It is not clear whether this is a definition or just an instantiation of a government.

The reader is now given an explication of what a "coercive monopoly" is, namely "an institution maintained by the threat and/or use of physical force – the *initiation* of force – to prohibit competitors from entering its field of endeavor." Now to prohibit competitors from entering a field of endeavor can involve many different kinds of things. Inasmuch as the nature of the "field

of endeavor" is unspecified, we cannot tell what prohibitions are justified and what are not. For example, if I enter into a contract with someone which commits both of us to certain actions to be performed vis-a-vis one another and does this by exclusion of the cooperation and interference of parties other than those who were specified in the contract, then I and my contractual party have prohibited competitors from entering our field of endeavor as specified by the contract.

So, in point of fact, the authors have not defined the concept "coercive monopoly" very well, since a monopoly such as the one discussed above could be one which does not involve coercion at all, it merely prohibits competitors from entering its field of endeavor – say that none but the parties can decide what the money from their activities in the market may be used for. Thieves, murderers, and criminals in general are prohibited from entering certain fields of endeavor with other people. They cannot even claim to be competitors in those fields since what they would be doing would involve coercion, the forcible entry into a contractual relationship. The Tannehill's definition of "coercive monopoly" suffers from total obscurity. But inasmuch as they have built into their definition of government the concept "coercive monopoly", and insofar as they talk of "prohibiting competitors" from doing apparently ordinary, non-coercive things, they have managed to offer a definition which will repulse every self-respecting libertarian into shying from the concept "government". This, to think of it, is just what the authors wanted. In other words, they have offered a "wish" for a "definition", namely their wish that the concept of "government" be self-contradictory.

It is, of course, not easy to criticize the authors' view of government without offering an alternative view. Yet from the above it should be clear that their claim that government is inherently evil (etc.) could only be supported by the technique of offering a definition of "government" which, when elaborated upon by the authors, would turn out to become self-contradictory not by virtue of internal contradiction, but by virtue of the fact that their definition of one of the conceptual components of the concept of "government", namely "coercive monopoly", turns out to be confused.

Actually, a coercive monopoly exists when other than those using coercive force are prevented from entering into a field of endeavor. If I enter a baker's field of endeavor by trying to win over his customers, that must *not* be prevented, for prevention (a "prohibition"enforced) would violate my rights. Another baker's prohibition against me in such an attempt might be irrational (and his enforcing that prohibition a violation of my rights). (Prohibitions are, after all, nothing more than prohibitions. Nothing is a coercive monopoly merely by issuing prohibitions saying, "I will prohibit you to compete against me." If one is stupid and accepts this order, the other has done nothing in the way of violating rights.)

The question is, must a government be a coercive monopoly? The Tannehills simply don't offer support in behalf of their affirmative answer. But they try, of course.

Here is their attempt: "Government is, and of necessity must be, a coercive monopoly, for in order to exist it must deprive entrepreneurs of the right to go into business in competition with it, and it must compel all its citizens to deal with it exclusively in areas it has pre-empted." Now this is very tricky. Notice that the support or proof of the assertion that "government is, and of necessity must be, a coercive monopoly" comes before the word "for" in the above statement. Thus we are told that "in order to exist (government) must deprive entrepreneurs of the right to go into business in competition with it . . . (etc.)." But this is just a restatement of the initial claim – which ought to be *proven,* not reiterated, by the last remark. To "deprive (someone) of the right to go into business . . . "is just what coercion is. The question is precisely whether governments must necessarily do it. No questions, governments have done this and do it in great abundance. But this only proves that there are governments which are coercive, not that governments are necessarily coercive. (If I pointed to many chairs and said of them that all of them are poorly built chairs, I have not yet shown that all chairs must necessarily be poorly built. And no one would deny that it is more difficult to attain moral perfection in society, by having a good government, than to attain the production of good chairs.) By now the general epistemological inadequacy of the Tannehill book is clear. A rational epistemology distinguishes between the actual and possible applications of a concept. One can have a valid and morally viable definition of some kind of human endeavor, e.g., government, without the opportunity to employ that concept which is thus defined always in connection with an instance which satisfies the requirement of *consistency with the definition* in toto. (In another context, one of the authors, Morris Tannehill, has said that Ayn Rand's definition of government is a case of trying to make reality out of a wish. Since there were no governments which satisfied Rand's definition with full consistency, the concept of "government" is supposed to be invalid. Of course this is not so.)

To move on, we must see if it is true that "(government) must deprive entrepreneurs of the right to go into business in competition with it, and it must compel all its citizens to deal with it exclusively in the areas it has pre-empted." First, it must be noted that there is little discussion in the present chapter about what it would mean for someone to go into competition with a government. (In another context I have encountered the idea, put forth by a critic of Miss Rand's theory of government, that the comments Miss Rand made with reference to "competing governments" actually serve as a devastating critique of the concept of "government" itself. Personally I disagree with Miss Rand's comments on the grounds that there is nothing immoral about a certain kind of competition between governments, a kind for which there have always been imperfect examples. England and the U.S. and other governments are already in competition for our "citizenship", i.e., our subscription or patronage.) Clearly, however, governments can compete with each other – but the precise nature of that competition would depend on what precisely a government is. When we admit that two surgeons can compete with each other we do not, thereby, endorse the action of a surgeon who interrupts his colleague's work and proceeds to perform surgery on his colleague's patients. Somewhat analogous to that would be the action of a second government or any person who interrupts this particular relationship between a citizenry (subscribers) of a given government and begins to perform the functions, nominally in behalf of this citizenry, which the original government was contracted to perform.

If we understand now the statement of the authors to mean the above by their idea of "depriving entrepreneurs of the right to go into business in competition with" a given government, then the argument in behalf of the contention that governments are coercive monopolies fails once again. For clearly such deprivation does not really constitute a violation of anyone's rights. The intruder must be prevented from violating the voluntarily entered into contract of the citizenry and those who are chosen to perform the functions of a government. (Needless to say, a properly functioning government must be limited by contract not only to the functions which are consistent with human rights but to the *carrying out* of its functions in accordance with human rights. Which is simply the extention of the notion that though self-defense is moral, self-*defending* itself must be conducted in accordance with morality.)

The authors of *The Market for Liberty* also add that "(government) must compel all its citizens to deal with it exclusively in the areas it has pre-empted." In addition to being vague, this begs a serious question. Surely one party to a contract is entitled to prevent the other party from violating that contract (again, in accord with objective moral laws). If the surgeon's patient has contracted for the surgery and then arbitrarily, that is, outside of the provisions of the contract, jumps up and has another surgeon do the surgery, this would be a violation of the first surgeon's rights. Compelling such action as is contracted for is why contracts are written: to protect from arbitrary changes of behavior. Furthermore, to say that "(government) has pre-empted" the areas wherein it operates is to beg the question whether it is necessarily the case that governments function by pre-emption. This again is something the authors should have proved but clearly fail to.

Thus far we have reached the second page of the discussion of government and have already discovered drastic difficulties in the authors' argument (if one can call it an argument at all). Of course, the Tannehill's are dead right about democracy and no libertarian could find fault with what they say about the myth of the morality of democratic governments. But about this matter they are surely unoriginal. Were they attempting to make a case against democracy, they would, of course, require a great deal more discussion, just to make their point conclusive.

On page 35 we are told that "The very word 'government' means some men governing — ruling over — others." To this a footnote is attached which tells us "The concept of 'a government of laws, not of men' is just as mystical and meaningless as democracy. Laws must be written and enforced by men. Therefore, a 'government of laws' is a government of men." A lot can be said about all this, also. First of all, the reader is offered a definition of government at the outset of the chapter and yet now he is given "the meaning" of the word "government". Nowhere is he told what the relationship between the definition and the meaning is or if these are supposed to be distinct or not. And once again a question is being begged: surely what is precisely to be established by argument is *what the meaning of the word "government" is.* To just tell us is, of course, no argument. Then to proceed to call the concept of "a government of laws, not of men" as "mystical and meaningless as democracy" is to make two mistakes at once. The concept "democracy" is not meaningless; it refers to a type of social arrangement which is morally repugnant — but nonetheless can exist. And the concept in question is once again the one whose validity the authors are supposedly attempting to discredit: namely that it could be the case to have a "government of laws, not of men."

This latter concept means, of course, that a morally appropriate social arrangement must have a government which functions by providing the *governing laws* of moral human inter-relationships. Of course laws can govern: the law of gravity governs the motions of the planets, etc., etc. However men have free will, so the laws which are proper to their social existence do not govern them automatically; they must choose to adhere to them. Only when they violate these laws and abridge human rights do those who have contracted to administer the laws come into the picture.

At the bottom of page 35 the authors say, "Those who maintain that government is an institution which holds monopoly on the use of retaliatory force (in a given geographical area) carefully omit to mention what kind of monopoly such an institution would be, and for obvious reasons." Now what must first be said about this is that the Tannehills carefully omit to mention who maintains this, and for obvious reasons. Superficially this can be taken to be Ayn Rand's view of government. Rand does refer to "monopoly" and "geographical areas", but here the similarity ends. Instead of quoting Miss Rand, which would have been the moral thing to do, the authors simply evade her precise wording entirely.

First, Miss Rand most emphatically does say "what kind of monopoly such an institution would be": a *legal* monopoly. It may be that Miss Rand's qualification is not totally enlightening — but then Miss Rand never claimed to be a philosopher of law; she has often made clear that she was dealing with essentials in her article "The Nature of Government". Then it must also be noted that if anything, the adjective "legal" should indicate that the monopoly Miss Rand had in mind was not a coercive monopoly, at least not by her intention and meaning. (Which is to say that someone could not prove what *that* really amounts to is indeed a coercive monopoly — the Tannehills have not done this, of course, anywhere.)

In point of fact there is some sense in calling the government defined by Miss Rand a "legal" monopoly, *if* one realizes that *any contract is a legal monopoly,* or could, at least, be understood as such. (Since I am not an expert on legal terminology, I cannot myself discuss in detail the implications of Miss Rand's characterization of the kind of monopoly a free society's government would have to be.)

One should know, of course, something about Miss Rand's *definition* of gov-

ernment if one wishes to attack it. In *The Virtue of Selfishness* (page 109) she says: *"A government is the means of placing the retaliatory use of physical force under objective control* – i.e., under objectively defined laws." Remembering that Miss Rand has quite explicitly stated that "government holds a monopoly on the legal use of physical force", and that as such it is indeed a very special kind of monopoly, one established by the "consent of the governed" through the voluntary means of a contract (or constitution – which need not mean "the Constitution of the United States"; that would be showing oneself to be quite concrete bound), the above definition in no way generates a contradiction. *This* is why the authors had to omit mention of it in their discussion. Since in Miss Rand's article "The Nature of Government" this is the only italicized statement of what a government is, I believe I am justified in claiming that this is Miss Rand's major improvement on the definition of the concept "government"; exclusive jurisdiction (legal monopoly) enforcement and/or authorization thereof and subjecting all this to objective law are for Objectivism the essential features of government. If only all governments which existed in fact were to function consistent with this, governments would be consistent with morality, with human rights. (The Tannehills conven conveniently ignore this portion of Rand's definition and in another publication one of them says of it that it of them says of it that *it is a "wish";* this claim reveals the author's total ignorance of Objectivist epistemology, in terms of which, of course, Miss Rand develops her theories, including that of government.)

There are only a few more points I would like to make about this book (specifically about the chapter under discussion). On the bottom of page 37, in a footnote, the authors remark, about an illustration, that "We do not, of course, concede such a possibility. We use this argument only for the purpose of illustration." How can an impossible illustration work? What is it an illustration of? An impossibility? How is that possible? Admittedly, of course, this is not essential to the authors' points; however, it does afford an insight into their epistemological awareness.

On page 38 (top) the authors list the various kinds of strife which are usually created by governments as they meddle with people's lives. By this they want to illustrate that government can only keep peaceful people in opposition to each other. But they forget to say that the people whom governments ought to keep apart from each other, namely the criminals apart from those who don't violate rights, should indeed be kept apart, at least in terms of the moral point of view the authors take.

Later, on the same page, we are once again told that "every government must initiate force because every government is a coercive monopoly" which is like telling us that "all circles are round because all of them encircle an area with a line at equal distance from its center on all sides." What kind of statement is this? Why say "because" here at all?

At the bottom of page 38 we are given additional reasons for viewing governments as bad, namely their "defects" which stem from their not being "part of the free market". That is like saying that just because a person is an amateur karate expert, he "cannot be just and reality-oriented". And, of course, just because a government engages in different kind of competition from a baker, it does not follow that none of the principles of the free market pertain to it. Surely a government which exists through the consent of the governed can be administered by different people, in accordance with certain procedures of changing the administrations, procedures which need not be arbitrary but quite in accord with the terms of the contracts in force. (Haven't the authors heard of clauses in contracts which provide for the methods by which the contract may be terminated? And, of course, if those administering a given government were to refuse to leave office, it would be just as if one's legal representative refused to resign after being fired.) Which is to say, the theory of the free society is not a utopian theory and that if the cultural climate becomes morally inferior, social arrangements can dissolve into an unhealthy state of affairs. There is, no doubt, a utopian tendency to anarchy, a failure to understand the implications of free will for social circumstances. But the issue here is rather complex, involving all the discussion about "protective agencies" and "arbitration agencies" in connection with anarchy or anarcho-capitalism. I do not, of course, want to deny the usefulness of those notions and the institutions to which they refer *within the context* of a free society in which human interrelationships are governed by objective laws, i.e., in which criminality is defined at least in terms of essentials and in which criminals are not tolerated except under special circumstances, always in line with the concept of "justice" which arises out of a valid theory of law, based on human rights.)

I want now merely to conclude by noting that the notion that government is necessarily evil is analogous to the notion that human beings are necessarily evil. Inasmuch as government is the institution which defines the moral use of physical force, it derives its nature from the fact that man has a right to use physical force under certain circumstances and that he has the right to make arrangements with others for the most efficient and moral use of such force. If his arrangement for the use of such force with other men cannot be but necessarily evil, that must itself derive from the fact that his own use of physical force must necessarily be evil, under all circumstances, even when attacked. Thus the logical underpinnings of a society without government is total pacifism, the view Robert LeFevre advocates.

The Tannehills are not pacifists and reject pacifism quite explicitly. And the bulk of their book is an attempt to show that organized self-defense can obtain without the institution of government. I believe, of course, that what they are talking about in those sections is precisely what a so called "limited governmentalist" might be talking about were he to describe the operations of a government of a free society, with, of course, serious exceptions.

It is for this reason that the Tannehills' book might be of use to libertarians, in order to get some valuable ideas about the character of legal arrangements in a free society, arrangements, however, which would only be possible within the context of a government by the consent of the governed.

The main purpose of the book, however, the demonstration of the necessarily evil nature of government, has not been accomplished. For this reason the work is not valuable.

the gang that couldn't shoot straight

Lanny Friedlander

At an early morning hour, two teenagers steal identical sportscars from the curb-stone before a home in Silver Spring, Md. Within minutes the theft is reported, and a cruiser spots the two Porsches speeding towards the open countryside. The cruiser pursues. One of the cars swerves down a sidestreet. The cruiser radios for help and continues after the other car. Although the sportscar is faster than the police car, the boy is inexperienced and, in attempting to avoid a car pulling out from a driveway, he runs off the road and into a a tree. The crash is fatal.

Minutes later, the boy's friend turns himself in. He is released to the custody of his parents to await trial. He waits nine months. Found guilty of auto theft, he is given a stiff sentence which is suspended. Then he receives a lengthy probation, during which he reports weekly to a court officer.

Throughout the nation, incidents like this occur regularly. For the purpose of slapping the wrist of a teenager, the police will chase him for miles at high speed. What sense does this make? Why do cop and judge seem to be operating at cross purposes? This month, complementing a previous article on police brutality, we consider the matter of police efficiency.

Why, for example, in a time of rapidly spiraling violent crimes, are the *majority* of arrests for simple drunkenness? Why do police often treat crime victims with indifference or hostility?

To decide if the police are efficient, one must question the ethical suppositions which act as the rationale and source of wisdom for the present system. Because efficiency can be defined only with reference to desired goals, underlying premises need to be carefully examined. Indeed, the greatest portion of today's police problems can be traced to either the fact that few people really know what they want the police to do or to the fact that people have exceedingly hazy or dogmatic reasons for asking police to do the tasks selected as "proper."

The following selection attempts to offer some definition of efficiency so that in the next section discussing statistics there exists a reasonable basis for judgment. Those who seek background material are referred to earlier articles on police brutality (Volume 2, Number 3) and student riots (Volume 2, Numbers 5/6).

Ethical Preliminaries

In a free society, the policeman's function is to provide for the defense of his customers. Recognizing the advantages of the division of labor, most people turn over most aspects of their defense to specialized professional agencies.

While not a moral imperative, such delegation is generally an economic necessity. In any case, police should be viewed as no more than agents of their customers, not as deities or moral supermen entitled to status superior to that of common citizens. Just as Eastern is the "wings of man," so police are the trigger finger of the world. Reduced to essentials, the constables of a free society—or of any society—are gunmen. Of critical importance are the purposes to which their guns are put: aggression or defense? Defense, the protection of human rights, is man's only rational justification for taking up arms.

It is from man's right to self defense, and his right to implement this right by any external means he pleases, including the employment of another human being, that the police derive their right to provide their services.

If, however, a policeman's gun is ever used for aggression, if he ever abrogates the right of an innocent citizen, no matter what the supposed justification, then to that extent, that policeman is no long-

er a defender of law, but a criminal—a criminal in uniform.

The protection that a free society's police might provide is divided into two general categories: guard services and restitution, or *before* and *after*. If a particular police force were moral and competent, its activities, whether guarding or recompensatory, would not include the *initiation* of force and would therefore be non-coercive. (Coercion is the initiation of physical force, the abrogation of a man's rightful range of choice. By this definition, protective acts, whether preventive or reactive, are non-coercive and unobjectionable. The issue readers might debate is that of the determination of the precise boundaries of retaliatory force. When does such force overstep its moral perimeter and spill into impermissible initiatory force?)

The need for various police services is not homogeneous. A man living on the island housing the Statue of Liberty has little need for watchmen and he needn't worry about the children leaving their bicycles on the lawn or about locking his door. Located in the middle of one of the largest crime areas in the world, the island is without crime. So while the caretaker may desire contract insurance to assure prompt delivery of supplies, he has little need for a patrol car. A bomb squad, maybe. . .

Picture another man in this proposed society. He runs a business of a nature requiring that he experience no inventory loss if it is not to suffer economic collapse. He is unable to obtain insurance at a reasonable rate and he cannot depend on the unsure process of obtaining restitution from the prospective thief, for it is unlikely that any thief could pay the tremendous damages caused by his relatively small but precipitous theft. The businessman's most practical course of action would be to hire trustworthy watchmen. For this man, restitutive protection would be akin to locking the barn door after the horse has been stolen.

This need for specialized, individualized service indicates the criteria for defining police efficiency: that the system in question have facilities for satisfying the particular desires of individual customers, that it include feedback loops to assure adequate communication of those desires, and that it be responsive to those desires.

Aside from consumer satisfaction, there are no ready-made standards by which to judge police effectiveness. Statistics on arrests, prosecutions, recovery of stolen goods, and other police activities are meaningless unless viewed in the context of consumer desire. A steel manufacturer's grandiose production figures would be laughable if one knew his girders sat rusting, unpurchased. The Nazi polizei were unsurpassed in their "efficiency" at the task of removing "criminal elements" from Aryan society, but no one would claim they were efficient at satisfying rational human needs. There exists no list of preordained tasks which police must undertake. In a free society police services to be provided would be determined by standard market processes. An entrepreneur, perceiving an unfulfilled market need, would offer service designed to meet that need and would, on the basis of the accuracy of his estimate, either make a profit or suffer a loss.

We haven't any way of determining before the fact exactly what free market police systems would be like, whether they would be exclusively concerned with watchman duties or with recovering losses whether large or small, concerned with single tasks or engaged in a series of interlocking activities designed to process criminals from detection to capture to prosecution to restitution.

If one of the basic requirements for defining police effectiveness is the unhampered feedback loop of consumer preference, then America's government police, funded by involuntary contributions—taxes—and run in the impersonal spirit of a "public service," are bound to be ineffective. Through the voting apparatus citizens exert some control. But aside from the diluted quality of voting control, important differences exist between a bureaucracy and the marketplace. In the current system, the "controller" (voter), financer (taxpayer), and user (victim) are not the same person—a formula for disaster. In the free market, these three functions are performed in continuity, by the same person. The political process, by interjecting force, disintegrates the natural flow process. The feedback loops and their benefits are dissolved along with *actual* (as opposed to apparent) control over police.

Under the present system, only one thing will ultimately prevent police from engaging in a medley of repression (besides stupidity, laziness, disinterest, tradition, or shyness): particularly painful form of public censure—revolution. But the standard long-range, integrated method of discouraging meanness and inefficiency, that of witholding payment, has been circumvented by your friendly politicians.

No matter what the police do, the money still rolls in. Individual cops can be fired (perhaps), but the agencies that hired them continue undaunted. No other industry, with the possible exceptions of the post office and the military complex, has so poor a reputation and so steady an income. This says much about control. While the so-called controlling public gets to vote every year or two, the police are free to do what they please with the taxpayers' money, 24 hours a day, 7 days a week.

The point isn't that the police are about to initiate 1984, but that, repressive or not, the police are not under the kind of control that is proper in human relationships. Even if all police action were non-coercive, as long as the funding is through force, the system will be wrong by definition. Any action undertaken with stolen money is wrong.

All this is pretty much in line with what free-market economists have long said about force-funded government activities, notably the post office. There is no reason to suppose police services are inherently unresponsive to market processes. That the fundamental service they provide is the use of force doesn't alter this; indeed, it makes it all the more imperative that proper economic analysis be applied.

Forced funding alters the police-customer relationship from that of a value-for-value, person-to-person, voluntary character to one of a something-for-nothing, beast-to-slave, involuntary character. Once the premise that coercion is necessary for survival is accepted by a culture to a degree sufficient for a group of men successfully to impose a tax on other men for the purpose of funding an organization supposedly dedicated to protecting those other men from theft, theer is no telling how repressive thta organization might become. It's only a matter of time and chance.

One of the most significant aspects that heralds the transformation of force-funded police from an institution of protection into one of authority is an alteration of legal strictures: less and less are they concerned with violations of citizens' rights, more and more with imagined transgressions against police (so-called crimes against the State).

Examples of laws that most obviously fit this category are sedition laws, laws against the advocacy of anarchy or communism, restrictions on private weaponry, and against resisting arrest, obstructing an officer, or assaulting an officer.

Note that these last three, to the degree that they might have been authored in an attempt to protect policemen in situations where the officer was truly the victim (and not the perpetrator) of aggression, are *completely* superfluous. The original laws against assault would have been sufficient—if the intent were *protection.* But the purpose of such laws is clearly not protection—it is *authority.* To make resisting arrest a crime regardless of context is to make self defense illegal and elevate the policeman to the status of deity. (There are at least three contexts in which it could be morally justifiable for a suspect to resist arrest: if he is innocent; if he is guilty, but certain that the policeman does not have evidence or authority sufficient to undertake an arrest; or if he is guilty and certain that the treatment to be afforded him upon apprehension will not be consonant with the crime). We find the legislative, judicial, and administrative branches of the government with a socialized police force acting increasingly in pursuance of laws that make real (and imaginary) crimes the subject not of restitution on behalf of victims but of fines paid to or prison sentences served for the State.

Political processes seem to encourage bad ideas. One of the most notable of these has been the manner by which men have tried to achieve the ideal of justice, as well as the means by which they came to their conceptions of the ideal. Since goal-choices are logically prior to the determination of an organization's success at achieving those goals, it is worthwhile to look at the conception of legal justice as embodied in the current system. The discussion will further illustrate that inevitable result of attempts to circumvent natural market processes—failure. Although the motif of American criminal law is multi-colored and confused, one basic theme does seem to predominate: the Biblical "eye for an eye." Only recently have people begun to examine this theme for possible non-libertarian, non-individualistic consequences. And so, until recently, material in this field has been as weak as it was sparse.

The question which must be asked of the present system is: "In whose benefit does it operate, and in whose benefit should it operate?" The sensible answer to the second question is: the victim and potential victim. Unfortunately, as a result of the "eye for an eye" philosophy, the answer to the first question, at present is anything *other than* the victim. We shall see why and how.

Taken literally, "an eye for an eye" can be seen to be of questionable value to the victim. A man might seek to have the man who gouged out his eye forced to collect sufficient money to pay for the costs of medical treatment. For him to strike back in rage would be insane.

Objectively, a victim's rational self-interest lies not in what he can do *to* his assailant but in what stolen value he can force his assailant to return.

The victim's concern, then, should be in those actions which best restore or improve upon the situation which existed before the crime. Such an individualized approach is alien to a politicized system. Individualized restitution gains the politician no power and, by placing the emphasis on the victim, demands too accurate a concept of justice to allow the political method to function for very long.

Thus, "an eye for an eye" serves the same stagnating function for the penal bureaucrat as does the concept of "good" and "bad" pharmaceuticals for the politicos of the FDA (see *Reason*, Vol. 2, Number 9)—that of assuring maximally feasible power.

Crime Statistics Analyzed

The preceding section was intended to stand as a preliminary presentation, as is this section. Comprehensiveness would demand more time and space than is possible under present circumstances. My intention is simply to present enough material for those who desire a brief explanation of the problem and to point the way for those who would attempt the more detailed projects which the subject assuredly deserves. The statistics used here were culled from the FBI's *Uniform Crime Reports (UCR),* the Boston Police Department Report of 1968, and the President's Commission on Law and Enforcement (the Commission).

Some liberty was taken in an attempt to to decipher the statistics and terminology of these reports. This is intended to assist those whose definitions of "crime" are a good deal more precise than those of the people who compile police data. Two sets of standards are used to judge police performance: those based on the premises sketched in the first section and the standards set up by the police themselves.

The Commission reports that the annual cost of crime in the U.S. is $4,747,000,000. (The *total* figure quoted by the Commission is larger, but it included such non-crimes as gambling.) Government expenditure directly related to police work is pegged at $4,212,000,000 per year (mostly local), while citizens spend another $1,910,000,000 for privately financed protection.

Perhaps this seems like an efficacious expenditure of money. But if the Commission's figures are inaccurate by way of including non-crime, they are also untrue to reality by omission of a very large quantity of real crime. As I mentioned before, government officials are not notably discerning and thus, while the government does report the total of America's crime, it does so under the strangest heading: we call it the federal budget.

If "private" crime amounts to about 5 billion dollars per year, federal and local tax revenue totals over 300 billion. This is *crime*—taxation is theft.

But still there is more: unreported private crime. The President's Commission cites detailed surveys taken in the cities of Washington, Chicago, and Boston by the Bureau of Social Science Research (Washington D.C.) and Survey Research Center of the University of Michigan which reveal the following: forcible rape occurs three and a half times more often than is reported in the UCR; burglaries, three times; robbery, twice as often. Even these figures may be low, the commission claims, because of poor survey techniques, the worst problem being a lack of reports from victims themselves!

What was the victim's most common reason for not notifying the police? He did not think police could do anything for him (NORC survey, cited by the Commission). Apparently, these people know something the extollers of police perfection do not.

Under political auspices, the public's sense of right and wrong fades, to be replaced with fuzzy, hollow catchwords like "the general welfare." People sense the immense arbitrariness of the system, which steals billions yearly in tax money yet punishes five dollar shoplifting sprees with months in prison; which ignores or condones brutal police action yet chastises people for such harmless and peaceful acts as gambling or selling drugs; which finds no difficulty in banning such terrible things as rock concerts and "dirty" movies but just can't find it in its heart to halt criminally dangerous industrial pollution; which is willing to spend a large fortune on such useless and immoral programs as Operation Intercept yet seems impotent to deter the rapid rise of violent city crime (committed while patrolment sleep in their cars on quieter streets.

What is the average citizen to think? If the state is always right—as many people seem to believe—and it is all right for the state to steal, why shouldn't the rest of us join in? This is not to say that the state causes men to aggress but that in a world dominated by the ethics of theft, the state acts as the perfect bad example.

Should the disrespect for legality engendered by the government's monopoly status not actually drive men to crime, it will doubtless leave them

callous to the plight of victims. By its nature, police investigative work requires active participation by citizens. But, as you know, willingness to help police is rapidly disappearing, especially in high crime areas.

In another vein, Daniel Gutman, dean of New York Academy of the Judiciary, estimates that 75 percent of street crime is committed by drug addicts. Accurate or not, his estimate testifies to the power of the state to work in opposition to its intended purpose. In an attempt to reduce actions it mistakenly considers "crime," it has created a class of "criminals" who become much more inclined to steal for their high. Most pleasure drugs are inexpensive to fabricate. The laws against their sale, far from removing them from the market, simply become part of their cost, a tax of sorts: a misery tax. The same laws—and the attitude that fostered it—make withdrawal treatment expensive or impossible. *So?* Burglaries—lots of them.

Another example is auto theft. The vast majority of such losses are crimes committed by under-18 thieves. Not coincidently, 16 to 18 is the age bracket within which many states first allow individuals to drive on the public roads. It is often the case that the parents of a 15 (or 16 or 17, depending on the particular state) year old trust their son with their automobile and would gladly let him use it, but the benevolent state says that he must obtain permission (a license) to use the roads they have paid for, and mommy and daddy wouldn't think of goingagainstthe wishes of their duly elected representatives.

So one night the kids in the neighborhood roll one of the neighbor's cars out of the driveway and take it for an hour joyride. Some 85 percent of auto theft is thereby accounted for. If the roads were private or if many localities did not zone out private tracks where kids might rent cars, what might happen to this statistic?

According to the Commission, 25 percent of maternity deaths in 1965 were due to illegal abortions. Who killed those women—the bumbling abortionists or the dirty old men in power who forced the women to resort to such desperate means? Or both?

Some of the most spectacular figures that might be pointed to in reference to police efficiency are those related to the solution of violent crime. By the standards the police have chosen to judge themselves, the large majority of violent acts of aggression are "cleared," that is, a suspect is arrested. Setting aside any objections one might have to any particular efficiency indicator ("clearance") that is not related to actual aptitude (which *might* better be indicated by conviction), this sounds like a decent performance. Or so I thought, until I read what the Commission says about victim-offender relationships in the kind of crime at which police investigators excel.

The Commission cites a study in Philadelphia done between 1948 and 1952 which discovered that only 12.2 percent of murders were committed by strangers. In 28.2 percent of the cases studied, the killer was a relative or close friend; in 24.7 percent, a member of the family; and in 13.5 percent, an acquaintance.

The FBI came up with similar figures.

What this means is that in all but about 12 percent of reported murders, if the police wish to find the killer, all they need is a list of names of the victim's family, friends, and neighbors. Not only do most killers turn themselves in, but they commit their crime openly, without premeditation or attempts to conceal evidence.

The best available statistics on rape and aggravated assault indicate that toher crimes of violence follow a similar pattern. The District of Columbia Commission on Crime found (in an unspecified year) that two thirds of 151 rape *victims* surveyed were attacked by persons with whom they were at least casually acquainted. Only 36 percent of the 224 *assailants* surveyed were complete strangers to their victims. 7 percent of the attackers were known to the victim by sight; 41 percent were relatives, family friends, or boy friends; 26 percent, acquaintances or neighbors.

Rape, of course, is one of the easiest crimes of all to solve. The victim invariably receives a strong impression of her assailant's features. In rape, then, as with other crimes of violence, the police have it easy.

The UCR cites these 1968 "clearances": murder, 86 percent; negligent manslaughter, 80 percent; rape, 55 percent; aggravated assault, 66 percent.

What happens when real intellectual investigative work is demanded of police? The UCR figures on crimes "against property" provide an answer. Unlike violent "passion" crime, "property" crimes are planned and often committed without witness. Naturally, the "clearance" rates are considerably lower than with violent crime: robbery, 27 percent; burglary, 19 percent; larceny, 18 percent; auto theft, 19 percent.

The correlation between complexity of investigation and police performance would appear to be approximately linear.

Basically, the police do poorly (by their own standards) in solving "property" crimes because in such crimes the criminal often includes making a serious attempt to foil them. Unlike violent crimes, which tend to be emotional crimes committed without forethought, "property" crimes are either crimes of "profit" or "opportunity," (shoplifting, for example) uninvestigatable because either well-planned or planned not at all (but committed without witness). Auto thefts, for one, fall into this last category.

The joyride thefts are nearly untraceable through standard techniques. Most cars are stolen by youngsters often on their first criminal escapade, and are abandoned without attempt at stripping or resale. Thus, fingerprinting, studies of M.O., and ring-breaking techniques are useless. (There are ways to find such kids but this article is not dealing with recommendations.) On the other hand, it would be quite interesting to find out what percentage of cars stolen by professional rings are recovered (before they are shipped out-country, or repainted and sold, or stripped). If attainable, such data would show the balance betw between the profitability of organized car theft and the profitability of organized prevention and/or punishment of car theft. Such data would show that in car theft and many similar offences the scales are tipped far in favor of the criminal.

This is to be expected. While America's police are a socialized enterprise, thieves face few, if any, entry barriers. Here, as everywhere else, free market economics apply. As long as it is more profitable for thugs to practice their trade than for police to find ways to deter or catch them, the clearance rate (or whatever efficiency measure you care to employ) will remain at its present level—or, actually, continue to drop as it has been doing in recent years. It's just good old supply and demand.

The true profitability that people find in "property" crimes is indicated by the recidivism rate (77 per cent for burglers from 1960 to 1968, as reported by UCR) and the phenomenal rise in this kind of aggression (83 per cent rise in burglary from 1960 to 1968).

I recall reading a hypothetical case of a man who stole $24 thousand from a bank, hid the money, was caught and convicted, served two years and was released .He later dug up the money and carefully spent it. Salary: somewhat less than $12 thousand per year, plus free room and board for two years. This particular example probably rarely occurs. More often, the crook won't be detected, or caught, or convicted. Yet it can be seen that in whichever permutation of the system's alternatives one views, the crook manages to get away cheaply, often

without paying back the debt he has incurred.

Just how many succeed in burying the loot may be indicated by the stolen goods recovery rate for the police of Boston for the year 1968. Before quoting those figures, however, the reader should be warned that, on the basis of these figures alone, only tenative conclusions can be drawn. Exactly what is represented by the various categories is known only to the obscure municipal pencil pusher who made the charts. Stolen property in Boston in 1968 was valued at almost $14 million, while recovered goods totaled about half that. Before we can work with this material, we have to know (or make assumptions about) whether the goods recovered were the same as those stolen or if the figures represent *any* material recovered in the 12 month period, in which case comparison of stolen and recovered goods figures is of questionable value. (Such are the troubles awaiting one who wishes to determine the efficiency of an organization by using data collected by that same organization).

A recovery rate of 50 per cent may seem half-way decent. But consider exactly what sort of goods Boston police were able to return.

Out of $8 million of stolen automobiles, automobiles, the boys in blue rounded up nearly $7 million worth. However, when it came to jewelry,money, and other goods stolen for profit, their record pales. Of $1.3 million of currency, less than $100 thousand was returned—about 1/17th. The report quoted similar figures for all other categories.

This is as we might expect. In auto joyride thefts, no attempt is made to sell or hide the abandoned vehicle. Finding these cars is child's play. But when it comes to items easily hidden and readily saleable, the cops fall flat on their own statistics.

Presently, I have no data of the extent convicted criminals are required by courts to make good their theft. From what I know, it is little. For the most part, money stolen is money lost (or gained, from the thug's point of view).

If the non-existent threat of retribution does not deter theft, how about the prison system? Does it scare the dishonest away from a life of crime? Does it rehabilitate those who weren't scared? Of course not. It is common knowledge that prisons are breeding grounds for criminals. And the recidivism rate demonstrates that jail is little threat to those planning to commit a crime for profit.

If imprisonment within the current system does not appear to work, it is no wonder. We should have never expected that free room and board would teach men that there is no such thing as "something for nothing". Penal theory has developed with the same disregard for reality as all other aspects of police work—and for the same reason.

Even a preliminary discussion of the particulars of police efficiency could fill many more pages, but as this article does not pretend to be much more than an invitation to further research, I shall end it here. Much more could be said: about the lack of integration between various functions of the system, about inefficiencies in the courts, about inadequate investigational techniques.

The future holds at least some promise that the Establishment will begin to look at police efficiency as the integrated whole I have outlined.

Already pointing in this direction is a recent book written by Norval Morris and Gordon Hawkins at the University of Chicago Law School, *The Honest Politician's Guide to Crime Control,* which advises that the quality of police work could be improved many times over by the simple expedient of unburdening the government of "crimes without victims" enforcement of which currently drains a large percentage of manpower, money, and equipment. The Ford Foundation recently announced a $30 million study of the police. And several think-tanks have begun to study the entire "criminal justice system"—*as a system.* All this is encouraging. But should those dispensing the money and doing the studies neglect to call on the sound advice of free market economists, whose analysis and predictions have proven correct for so many other enterprises, it would be the ultimate cop-out.

This article is a condensed and revised version of a paper presented by the author at several conferences sponsored by the Society for Individual Liberty.

letters

Commercialism: Response

Just a couple of random thoughts on the advertising editorial:

1) Who runs ads that use terror as the selling method? Public service ads, of course. Almost everyone is a thinly covered threat—and not always so thinly covered.

For example: Tobacco is evil and will kill you. Seat belts or die. Give to the X-foundation or you'll cripple children. You made inflation, you piggy person, you! Etc.

2) You forgot to mention Consumer's Union, etc. and the Better Business Bureau—all market units that protect the customer. One point that Bob LeFevre made is that people don't bother to check the quality of the goods when they feel they are protected. Before that they did check and had a set of rules and things to look for. Worked fine for the most part. A consumer guide lets it work even better—you get decimal place readings and ratings to go by there!

3) The rube that buys a $5 pair of shoes for $10 because it was on the top floor or under a different label is getting something with his shoes that someone else might not want—status. It is stupid; but if you're willing to grant that he can have a religion for the same sorts of reasons, then let him walk around in $10 shoes, already. Now, how does a company add this wonder material, status, to its product? Advertising—either word-of-mouth (the best kind of advertising) or paid ads. If this adds to the value of the product, then fine, they profit (VW had lots of word-of-mouth before they had a paid ad in this country, while paid ads built American Motor sales—there are other examples, of course). If they just blow it, they lose (Edsel).

Status is a tricky material to work with—very high risk. More power to the man that can handle it so it works right for him!

Joe Celko
Metro Magazine
Atlanta, Georgia

America the Beautiful: Response

Rosalie Nichols raises a questionable point in "America the Beautiful—On Whose Land?" (January, 1971) when she claims that "private collective ownership . . .is perfectly valid and moral. As long as it is voluntary, there is not a violation of rights." She then cites as examples the Mormon Church, Goodwill Industries, Rampart College, and "any other voluntary organization." So far, I agree. But an Indian tribe is not a charity, fraternity, social club, etc.—it is not a *voluntary* organization since one is born into it, just as one is born into the US and is thereby a citizen subject to the draft, taxes, etc.

Imagine, for a moment, that the US had *in fact* been uninhabited before Columbus. Assume further that a single ethnic group had settled the US, and had set up a "Tribal Constitution" in 1789, asserting collective ownership of the North American continent. Would not a person born today into such a society be justified in demanding the right to secede with his own portion of land (that *he* used and occupied) and be free of tribal authority?

Yet under Miss Nichol's conception of "voluntary tribal ownership," "the only restriciton placed on land even where it was individually cultivated was that it could not be alienated from the tribe. Members could give, sell, or lease an individual tract to another member, but not to somebody outside the tribe." How libertarian! Isn't this tribal society just a small-scale version of the oppressive state, with a different level of technology (particularly transportation and communication)?

The social system one is born into does not affect the existence or exgent of his rights as a human being (whether or not they are recognized). If there exists—for anyone—the right to own land individually (i.e., to *use* and *dispose* of it), then this right exists for *every* individual. A tribal authority can call itself "owner," but this does not mean that its claim is valid, any more than the US government's like claim would be.

Therefore, the question of whether an Indian is entitled to land ought to be phrased in terms of individual circumstances—whether the individual Indian or his ancestors were validly using and occupying a particular piece of land, according to some sort of objective standard. Where the tribe made strictly collective assertions of ownership which could not logically be subdivided into objective individual claims (as in the case of nomads claiming the entire region over which they could conceivably roam), such claims should be rejected. The issue is not over whether the claim was in fact subdivided—merely whether the nature of the claim is such that it could have been. I think this criterion provides a good test for distinguishing between valid and invalid collective ownership, valid collective ownership being logically based on and justified by the prior existence (or potential existence) of individual ownership.

John McDavitt
Charleston, South Carolina

Force is moral only against those who initiate its use. The recipient of a stolen good via free trade has not initiated force to obtain it. Therefore, forcing it away from him, even to restore it to the original owner, would be an act of coercion every bit as damnable as the injustice sought to be rectified.

If your Indian lands were stolen, collect from the thief. Where that is not possible, suffer. Don't try to correct one injustice with another, by initiating force against those whose only "crime" was to give value for value.

Kris Kott
Bloomington, Ind.

It is not my intent to argue with Rosalie Nichols' article (*Reason,* Vol. 2 Nos. 9, 10). I disagree with many of the points about the epistemological/ethical principles relating to the evaluation of cultures. My interest lies at this point in considering means by which the ills done by past generations of individuals and those still undertaken can be remedied *now* or in the future. Miss Nichols has accomplished part of the task of analyzing the sense in which those who live today are *responsible* to deal with injustice. Now let us look if a means of dealing with injustices can be discovered.

The courts of the United States need a set of laws which will enable good lawyers to make many claims in behalf of anyone, including various individual or groups of Indians. There are now some laws on the books which can be utilized. Of course, political pressure is needed to bring about justice from government itself. That is

very difficult, admittedly, but not impossible. The heat can be put on with sufficient support from, for example, libertarians across the country.

Still, the more important matter is the theoretical one, for our purposes. I gather Miss Nichols realizes the low probability of getting major things accomplished in the near future in behalf of any person being treated unjustly, not to mention the inhabitants of reservations. But the legal principle to utilize for purposes of theoretical analysis could be "the obligation to fulfill propriatary exchange promises" or the law of contracts in general. Some of the treaties, though often unfair (yet very often goods desired were exchanged for goods desired, e.g., whisky for land), were quite explicit and implicitly respectful of property rights. (The gypsies in Europe have it much worse—they are entirely without the concept of "property rights" in their legal systems throughout their places of wandering.)

The concept of "property rights" makes sense only in conjunction with a legal system; it is the connective between morality and law. It needs both for it to be a workable concept in a culture. (It is a necessarily true statement that a legal system must be based on human rights; those familiar with Rand's theory of government will perceive this. These rights provide the foundation of a legal system. But without a legal system, they have no practical function.) Inasmuch as Indians were accepted within that legal system, their ownership rights ought to have been recognized and acted upon. Inasmuch as this was not the case the Indians must look back to the treaties.

I believe that I have at least indicated a means by which it could be possible to ensure justice for Indians and others. We must develop the legal mechanism and begin to dig up all the legal evidence toward the development of the avenue of presenting cases to courts. We need to develop a better legal system, one more consistent with human rights. If we develop such a system in harmony with the present legal precedents—i.e., don't redo the whole damn system—we can then employ this evidence toward the securement of justice.

Tibor R. Machan
Bakersfield, California

I wish to announce the founding of the American Association for the Abolition of Involuntary Mental Hospitalization. The nature and aims of the Association are set forth in the following excerpts from the organization's "Platform Statement":

Throughout the entire history of psychiatry, involuntary psychiatric interventions, and especially involuntary mental hospitalization, have been regarded as morally and professionally legitimate procedures. No group of physicians, lawyers, or social scientists has ever rejected such interventions as contrary to elementary principles of dignity and liberty and hence as morally and professionally illegitimate. The AAAIMH does.

It is not in the province of the AAAIMH to promote or oppose any particular method of mental or psychiatric intervention, provided that it is undertaken with the informed consent of the client and is freely terminable by him. We take this position not because we do not hold some opinions about what are desirable or undesirable psychiatric practices, but because we wish to focus sharply on what we consider the most pressing practical issue facing the mental health professional today: the separation of voluntary from involuntary interventions. . .

Membership in the Association thus offers a means to identify publicly those persons (in the mental health field and outside of it) who oppose currently accepted psychiatric and psychiatric and psychological practices resting on the use of state-supported force and fraud.

Membership is open to all persons interested in supporting the aims and programs of the Association.

Thomas S. Szasz
Chairman of the Board of Directors,
116 Bradford Parkway
Syracuse, N.Y. 13224

Dirt struck the box with a hollow whoomp,
A pebble fell with an echoing clatter.
Two tired old workers were already busy
Though the wet-eyed mourners were still near.
The starched honor guard retreating
From the non-uniformed.

No one understood - why him.
Others just asked, why?
But what hurt most was down in town
Nobody gave a damn.

It was all unreal - so unnatural - totally irrational.
The words of "God" and "green pastures."
And the rifles and the thanks of a grateful nation.
All except a mother's love and a father's grief.

In those brief moments of irreplaceable loss
Can't we see a black mother's love is the same,
And a yellow farmer also tries desperately
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So then, who gives this order?
And think before you reply.

Henry J. Hohenstein

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